

THE GOLD NUGGET

December 2017



The Prez Sez by Jim Long



I want to wish every member a very, very Merry Christmas. This winter has stated very warm for this time of the year. We have had a lot more time to get into the water than is usual, but with Colorado, you never hedge your bets and you had better be ready for just about anything at any time.

When I look back on the year, we have had a busy one. We performed seven panning demos, went out on five prospecting outings, accomplished one tour, did a metal detecting hunt, held a Club picnic, held a couple of beginning prospecting classes, participated in the GPAA Foothills Chapters Gold Show in Jefferson County and we had some really good programs at the weekly meetings. We hosted 18 different events during the year and tried to offer a little something for everyone. I really wanted to get

a rock-hounding outing accomplished but it just never worked out. But there is always next year.

Elections were held in November and the current Board will be working on a new schedule of events for the coming year. We welcome our new **Treasurer, Roger Schlenger**, and wish him success in his upcoming endeavor of keeping track of our Club finances. We want to say good luck to **Wayne Schumacher** who stepped down as he is preparing to retire and has a long list of honey do's and other activities to accomplish. Wayne did a great job while he held the Post for the last couple of years.

Since the election of President Trump, there have been signs that changes within the Bureau of Land Management and the US Forest Service are beginning to take place. I believe those changes are going to be for the better for the mining community in the long run. However, only time will tell if the miners in Washington, Oregon, Idaho and California are going to see any changes any time soon as the anti-mining crowd were far more entrenched out there that they were out here. But we miners need to be aware and be prepared to speak out and even fight back if necessary, to preserve the mining heritage and culture of Colorado. Our own Cache Creek is in a flux right now and we will have to see if the 'Trump' umbrella will force the local BLM folks to meet the miners halfway or not. We have thrown in with the local miners down there are support their efforts for a positive resolution to the whole mess. Only time will tell on that one.

I have recently heard nothing but good things about the new White's Monster 1000 metal detector. It is a very durable machine and is very good at finding gold nuggets. It only runs around \$850.00 or so and even less with the military discount that you can get through some dealers. The fact that it has been thoroughly field tested by some pretty big names in the business is going a long ways in sealing its reputation as a good machine to have in your arsenal. While most of us who have been around a little while well know that the odds of your finding nuggets in Colorado with a metal detector, while not totally impossible, is highly improbable unless all the stars and a lot of other very lucky stuff is lined up directly over your head. At least in as far as finding a lot of those nuggets goes. Now, detecting in Nevada, Arizona, California and even Alaska will improve your odds immensely, not so good on the odds here. As you well know, Colorado has so much more private property in the better gold bearing areas than do some of the other states. That works against us here. But hey, I do know guys personally who have in fact, found nuggets here and not all that long ago either. Sometimes, it just means you have to work harder to make it happen. But the odds of buying a detector and leaving the store to go find nuggets in the same day in Colorado has about the same odds of you getting hit in the head by a falling meteorite. Just saying..., although either way, you might be considered to be pretty lucky in a way!

This year, I have seen a lot of new products flying off the shelves around the country and to my way of thinking, a lot of it is just different ways of reinventing the wheel so to speak. Although a lot of it can be made to work, I have found that the builder/creator/designer can always make something work a lot better than you can. So I like to remind those more inexperienced folk that sticking to the basics when learning is the safest way and the cheapest way to go. Then if you find lots of gold, you can sell some of it to finance all this other fancy and cute stuff to try out. And if you have lots of money to invest, I have a few really old maps of old long lost gold mines that I found buried in an old iron box up in Russell



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Gulch that I just might be willing to part with if you get me drunk enough and offer enough of that green money that looks like gold. I mean, after all, at least one of us ought to come out of it pretty good!!

Anyway, that is the view from here and I wish you all Good Luck in your endeavors, no matter what they may be! And until we meet again, keep your sunny sides up and may the bottoms of your pans turn bright with that treasured ‘Yaller Gold’!

You may contact me at 303-452-6087 or at jnslong945@msn.com . Happy and safe prospecting to all.!!!

The V.P. Corner by “Joe Fortunato



Hello again, fellow gold prospectors. It is already Dec. 3rd, just over two weeks until our annual "Christmas Dinner". I always look forward to our December get together as we always have a good turn out and a lot of fun. It is a great time to catch up with what members have been doing, hear some good stories, and hear about any plans for new adventures in the months ahead. A few weeks ago, I got a call from one of our members that I have detected with at Rye Patch, Nevada. He suggested that we take a trip to Arizona in early 2018 to do some detecting for gold. So we might just be headed for Arizona in

February or March, to try our luck at finding some of those elusive AZ nuggets! It has been nearly ten years since I have chased gold in Arizona. That means some serious research is going to have to get done in the next couple of months, if we expect to have a decent chance of finding any nuggets. I still have not made it to Clear Creek to do the testing that I had mentioned a couple of months ago. I have thought about it numerous times but other things keep popping up that sidetrack my plan. I can blame it on work to some extent, but not entirely. I have had several opportunities to get down to the creek in the past couple of weeks, but instead chose to go detecting for coins and jewelry with friends on three separate occasions. On the second outing my detecting partner came up with one of those finds that makes any detectorist want to do the “happy dance”, he popped out a “1922 Peace Dollar” !!! That one even made me happy, and I didn’t even find it!!! I guess that is about all I have for now, hope to see all of you on Dec. 20th. Until then...MAY ALL YOUR ADVENTURES BE GOLDEN!!! Questions or comments Call or text me 303-263-7204 Joe Fortunato

From the Treasurer/Secretary Ledger by Wayne Schomaker



The **December Program will not be a regular meeting** but will consist of a Christmas Pot Luck Dinner and Recognition Program. We will also have a “Gold Elephant” gift exchange and gifts should be mining related and less than \$20.00. There will be no gold nugget drawing at this get together. The Dinner will start at 6:30pm and the Recognition Program will start at 7:15. Our regular meetings and gold drawings will commence again in January. I am stepping down as your treasurer and, **Roger Schlenger** will be taking over. See you all at the up-coming Christmas Dinner.

Planned 2017/2018 GPR Meeting Programs:

December 20 Christmas Pot Luck Dinner and Recognition Program.

January 17 Gold Trails video, episodes 9 and 10.

February 21 Gold Trails video, episodes 11 and 12.

March 21 Gold Trails video, episodes 13 and 14.

April 18 Gold Trails video, episodes 15 and 16.

Board Meeting Minutes From Nov 2017

X	James Long	X	Joe Shubert	X	Joe Fortunato	X	John Johnson
X	Mike Hurtado	X	Joe Johnston	X	Chris Kafka		Brandon Luchtenburg
X	Wayne Schomaker	X	Bobby Manning	X	Andy Doll		Gary Hawley

Quorum Present? Yes

Call to Order: By Pres. Long at 6:07 pm

Reading and Approval of Minutes: Corrections: N/A Approved as read/corrected: Yes.

Treasurer’s Report: Questions: none Approved: Yes.



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Correspondence: 1 phone call, 10 e-mails, 8 mailings.

Webmaster: Total Hits 149748 Hits for last 2 month 219.

Committee Reports:

- Gold for 2018 is packaged and ready for the coming year.
- BMCK Kafka is getting Christmas Program ready.
- Election will be tonight.
- Ken Barker Nominees and ballots ready to go for tonight.

Unfinished Business: Letters were sent out to local congressman reference Cache Creek..

New Business: We will need new stickers for the membership badges. Board voted to have Pres. Long make the necessary order when ready.

Planned Outings for 2017: There are no further Outings planned for the year.

From the Board:

- Pres. Long discussed the Nov. 4 Metal Detecting Hunt which went very Well. Weather was pretty good and we had a good turnout.
- There will be no regular Meeting in December, only the Potluck Dinner with a 'gold elephant' gift exchange followed by the Recognition Program.
- There was nothing further from the Board.

Additional Announcements: None at this time.

Next Board Meeting: January 17, 2018 at 6:00 pm.

Next General Meeting: January 17, 2018 at 7:00 pm.

Tonight's general meeting program: We will feature a video from the Series 'Gold Trails' featuring GPAAs Kevin Hoagland referencing different aspects of small scale gold mining around the country.

Adjournment: Meeting stands adjourned at 6:40 pm.

QUESTION OF THE MONTH

NO Question for Dec, Back in Jan 2018.

2017 GPR Board of Directors Members

President

James Long

Vice President

Joe Fortunato

Secretary/Treasurer

Wayne Schomaker

2 Year Board Members

Joe Johnston (2014)

Joe Shubert (2015)

1 Year Board Members

Chris Kafka

Andy Doll

Brandon Luchtenburg

John Johnson

Bobby Manning

Mike Hurtado

Past President

Gary Hawley

General Meeting Minutes From Nov 2017

1. Meeting was opened at 7:04 pm by **Pres. Long** with the Pledge of Allegiance.
2. **Pres. Long** then announced that the evening Program would feature a video of the Series 'Gold Trails' episodes 7 and 8, by GPAA's Kevin Hoagland as he features small scale gold mining across the country. The Program was again, well received.
3. **Pres. Long** gave the Metals Report: Gold 1277.60, Silver 16.95, Platinum 929.00, Palladium 979.00. Rhodium 1350.00.
4. **Web hits** for last month were approx. 219.
5. **Treasurer Wayne Schomaker** reports that the Club remains in the black. Report is available for review for anyone who wishes to see it. Also, be sure to buy tickets for the 'Special Nugget' drawing. We have a brand new Alaskan chunk of raw gold weighing in at 13.9 grams. Also, be sure to buy tickets for tonight's 9 nuggets drawing, the largest being 2.6 grams.
6. **Dan and Becki McConnell** who oversee the Membership Table reported that we had 77 members in attendance. There were no guests present. The total meeting attendance was 77.
7. **Pres. Long** read the 'Question of the Month', which was "**Gold is so pliable that it can be made into sewing thread. An ounce of gold can be stretched how far??**"
8. **Pres. Long** advised that there was time to enter items at the break for the 'Finds of the Month' table and that the monthly winners from tonight will need to be saved for the Finds of the Year competition in November, 2018. We will also be judging the **Finds of the Year for 2017** tonight. A reminder to all that gold submissions need to be weighed dry and only one submission per person per category. Be sure to fill out the entry cards completely.
9. **Sara Saraceno** announced the new 'Cache' Hunt and presented **Clue # 4**.
10. **Pres. Long** advised that there were lots of stuff in the **Club Store** for sale. We have bags of sand containing gold for members to buy as well as lots of other stuff, and we have discounted several items. We continue to look for a volunteer to take over the Store. We thank **Mike Hurtado** for over- seeing this important aspect of the Club.



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11. **Pres. Long** informed the membership that:
 - there will be no further Outings for the year.
 - The December meeting will feature the Christmas Pot Luck Dinner and Recognition Program and will not host a nugget drawing. Dinner will start at 6:15 to 6:30 and the program will start at 7:15.
 - We will have a 'Gold Elephant' gift exchange.
 - The metal detecting hunt of Nov. 4 went very well and most of the planted targets were recovered along with a few other surprises.
 - Pres. Long did get the Letters of Support for Cache Creek out and on their way.
 - The WMMI is hosting a Fire Assay Class on Nov. 25 for those interested. Your GPR membership gets you in free with your Badge.
 - The CSM's is hosting another Book Sale on Dec. 1, 2 and 3 at the Geology museum for those who would be interested in checking that out.
 - Tonight was the election of Board Members. All current BM's were re-running with exception of Sec./Treasurer. **Roger Schlenger** was nominated. There were no further nominations and the election was completed.
 - The three nominees for the Ken Barker Award were ousted for members to vote on during the break.
 - Members were encouraged to support the Store during the Break and to return any materials checked out from the Library as soon as possible.
 - There was nothing of note added from the Floor.
12. **Pres. Long** announced the break at 8:25 pm. Meeting was called back to order at 8:42 pm.
13. **Pres. Long** announced the winners of the 'Question of the Month'. The answer was, "**More than 50 miles**"!! There were 32 winners who received their extra drawing ticket for the gold drawing.
14. **Pres. Long** announced the winners for the 'Finds of the Month'. Those were:
 - Best Coin – **Angie Yen** with a '1943 Mercury dime she found in a yard while metal detecting in Lakewood, Colo..
 - Best Jewelry – **Dennis Perederin** with a gold earring he found while metal detecting in Westminster, Colo...
 - Best Mineral – **Dale Herbertson** with samples of copper rock he found in Park County, Colo., while prospecting.
 - Best Artifact – **John Olson** with an old military eagle button he found while metal detecting on the Eastern Plains of Colo.
 - Best Bottle – There was no entry for this category this month.
 - Most Raw Gold – There was no entry for this category this month.
 - Largest Raw Gold – There were no submissions in this category this month.
15. **Pres. Long** announced the winners of the '2017 Finds of the Year'. Those were:
 - Best Coin – The winner was **Joe Johnston** with a coin spill he found in February 2017..
 - Best Jewelry – The winner was **Joe Johnston** with a sterling animal necklace he found in January 2017.
 - Best Mineral – The winner was **Susan Duncanson** with a Prairie Agate she found in September of 2017.
 - Best Artifact – The winner was **Ian Duncanson** with a .50 cal cartridge he found in April of 2017.
 - Best Bottle – The winner was **Ian Duncanson** with an old bottle he found in September of 2017.
 - Most Raw Gold – The winner was **Kevin Single** with 0.85 grams of gold he found in March of 2017.
 - Largest Raw Gold – There was no entry/ winner for this category.
16. **Pres. Long** concluded the evening with drawings for the numerous door prizes donated by the **GPR, Dick Oakes, and Pres. Long**, followed by drawings for the 9 gold nuggets. A reminder that holders of drawing tickets for the regular gold drawings who did not win and want to redeem those tickets may present them at the end of the Meeting and they will be reimbursed at .01 cents on the dollar, or they shall be considered to have been donated back to the Club. Those assisting in the drawings were **Chuck Cown** and **Wayne Schomaker**.
17. **Pres. Long** reminds the members that sometimes during the meetings, The President's time is overwhelmingly taken up by the many who wish to speak to him and he apologizes if anyone ever feels like he is unavailable. It is not his intent to be inaccessible and he encourages anyone with questions to contact him by e-mail or phone outside the meetings at any time. His e-mail and phone number are on the web site.



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18. **Pres. Long** thanked **Chris and Joe Kafka** and all those who contributed to the Refreshment Table. Any member is encouraged to chip in and add to the spread each month. Don't forget the 'tip jar' also, which helps to defray costs. This really helps the folks who run the table and those who volunteer up front each month. The Club appreciates the efforts that each and every one of you to make the refreshment table enjoyable.
19. The **November Meeting Program** has not been determined at time of press but we will have something lined up for sure. It will be a surprise..!! Until next time, remember to prospect safely, live long and be grateful for that golden bounty from the stars, that gleaming magical miracle, called 'gold'!
20. The Meeting was adjourned at 9:01 pm.

Finds of the Year 2017 voting

Voting of the various finds of the previous eleven months took place in November. The winners were:

Best Coin – The winner was **Joe Johnston** with a coin spill he found in February 2017.

Best Jewelry – The winner was **Joe Johnston** with a sterling animal necklace he found in January 2017.

Best Mineral – The winner was **Susan Duncanson** with a Prairie Agate she found in September of 2017.

Best Artifact – The winner was **Ian Duncanson** with a .50 cal cartridge he found in April of 2017.

Best Bottle – The winner was **Ian Duncanson** with an old bottle he found in September of 2017.

Most Raw Gold – The winner was **Kevin Single** with 0.85 grams of gold he found in March of 2017.

Largest Raw Gold – There was no entry/ winner for this category.

Finds of the Month

The finds of the Month for Nov are as follows:

Best Coin – The winner was **Joe Johnston** with a 2009 Penny he found in Monaco Park, Commerce City while m/detecting.

Best Coin – The winner was **Angie Yen** with a 1941 Mercury dime found in Lakewood, Colo while m/detecting.

Best Jewelry – The winner was **Dennis Perederin** with a 13k gold ear ring he found in Westminster, Co while m/detecting

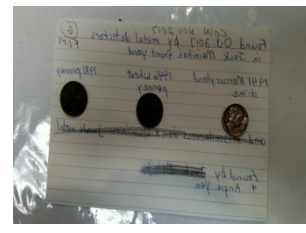
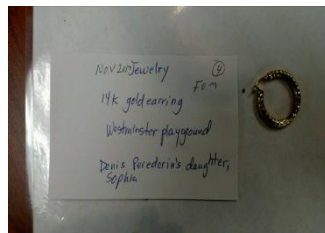
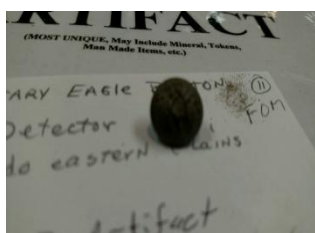
Best Mineral – The winner was **Dale Herbertson** with a copper rock he found in Park County, Co.

Best Artifact – The winner was **John Olson** with an old cavalry eagle button he found in eastern Co while m/detecting.

Best Bottle – There was no entry for this category this month.

Most Raw Gold – There was no entry in this category this month.

Largest Raw Gold – There was no entry for this category.

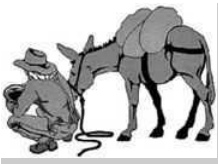


Be sure and bring your treasures and finds in to share with the rest of the Club. We would all like to know what everyone else is finding out there so don't be bashful. Winners each month will have their name published in the Newsletter. There are six (6) categories to choose from when entering. Monthly winners will need to save their finds to bring back to the November 2018 meeting to compete for the Find of the Year 2018. Thanks to all those who also submitted, additional finds that were not judged winners.

A Miner's Laugh

After having way too many drinks of nog on Christmas Eve, an old miner decided that he would play Santa for all his friends. So he got himself a Santa suit and dressed up his mules to look like reindeer





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and hooked them up to an old ore cart for a sleigh. Santa and his reindeer wanted to be really quiet when they delivered presents so no one would know they were there. When they arrived at the first driveway, there was a loud, "Snort, snort, sniff, honk, honk, sniff." "Shhh," said Santa and he proceeded to get out of the sleigh. Once again, louder this time, there was a "Snort, snort, sniff, honk, honk, sniff." Dogs began to bark in the neighborhood. "Shhh," Santa said again, "Stop doing that." He started to lift his sack of ore chunks out of the ore cart/sleigh when he heard it again, even louder. "SNORT, SNORT, SNIFF, HONK, HONK, SNIFF." Lights came on all over the neighborhood. Some people opened their windows and stuck out their heads trying to see where all the noise was coming from. Horrified, Santa jumped back on to the 'sled' and headed back to his house. When he got there, he lined up all his 'reindeer' and said, "OK, now look, I am not going to deliver any more presents until the reindeer who is trying to be funny by making those noises confesses and apologizes." He waited. No reindeer/mule came forward. "I know who you are," said Santa. He held up a piece of paper. "I've written your name here and I will read it. But I want to give you a chance to do the right thing," still no reindeer came forward.

So Santa did the only thing he could. He read off the rude-nosed reindeer.

(Taken from the internet and revised just for all us 'old miners')

Annual Metal Detecting Outing

On November 4, the Club held its 5th annual Hunt at Majestic Park in Arvada. The 2-acre site is perfect for such a hunt and is often used by various Clubs along the Front Range for the same purpose. We had nearly 30 people on site to participate in the event and the weather turned out to be perfect once again. We were in shirtsleeves by 10 in the morning. There were some 200 targets to find and amazingly, the participants found all but 23 of them, which is the best result in the past 5 years. We also found plenty of targets that we did not plant, to include a really nice .925 silver ring found by Angie Yen, which was the best find of the day, second only to Bill Chapman's find of a 1959 Mercury dime. A total of 250 targets were actually recovered which made it a pretty good day. The following members won prizes for their efforts: Dan Cheer, Dillon Cheer, Angie Yen, Erik VanHalle, Joe Kafka, Bill Chapman, John Brinkey, Charlie Chase, Fran Espinosa, Abel Espinosa, Greg Knerl, and Everett Johnston. Prizes included .999 silver rounds, Morgan dollars from the 1800's and the early 1900's, Barber half dollars, 1800 era one cent and two cent pieces and gold nuggets. A good time was had by all. Many thanks go to Joe Fortunato, John Olson, and Chuck Cohn for all of their assistance and serving as the Rules Committee. Pres. Long got a few photos of the fun.



Mining Concerns from Around the Country

(In my attempt to keep our members aware of what is happening involving mining from around the country, I will run this little section each month and see how it goes. I am apt to put a little passion and some direct finger pointing in my reporting, for which I will offer no apology to anyone who may feel offended. I support responsible mining and responsible miners, period. It is what it is, and it is strictly my opinion, and that is that, like it or not .jj)

LEGISLATIVE AND REGULATORY UPDATE:

PLF sues over critical habitat –The Pacific Foundation (PLF) has filed a lawsuit against the US Fish and Wildlife Service over the agency's 1.8 million acre critical habitat for the Yosemite toad and two yellow-legged frogs in the Sierra Nevada Mountains. The critical habitat is prime gold mining territory for small scale prospectors and commercial miners. PLF states that the Service failed to comply with the Regulatory Flexibility Act (RFA) when it created the designation in Central and Northern California. The RFA is a statute that "requires comprehensive economic



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analysis before new federal rules can be imposed that could significantly affect small business and small government entities” said PLF. “Bureaucrats imposed these habitat decrees without due regard to their effect on the lives and livelihoods of rural residents,” said PLF Senior Attorney M. Reed Hopper. “This willful blindness wasn’t just callous, it was illegal, a violation of the Regulatory Flexibility Act. The RFA is meant to balance regulatory goals with the needs of a healthy economy,” Hopper explained. “But agencies like the Fish and Wildlife Service have been concocting spurious excuses for not complying and refusing to undertake the required economic impact studies. “Our lawsuit aims to end these evasions and put teeth back into the RFA,” he said. “Victory will benefit not just the victims of the harmful habitat designations that we’re challenging, but also thousands of land owners, small business owners and employees, and municipal organizations across the country. The case is *California Cattlemen’s Association, et al. v. US Fish and Wildlife Services* and it was filed in US District Court in Washington DC. PLF is asking the US Supreme Court to review another case involving critical habitat. In *Markle v. US Fish and Wildlife Service*, the Service designated land in Louisiana as critical habitat for a frog that hasn’t been seen within the state for over 50 years. “We’re asking the Supreme Court to shut down an unprecedented abuse of the Endangered Species Act,” said PLF Senior Attorney Reed Hopper. “Regulators are seeking to impose control over privately owned property in the name of a phantom frog, a frog that is nowhere to be found on the property or, indeed, anywhere in the state. Moreover, the property is not suitable for frog habitat in its current state. Never before, have federal officials attempted to rope off private property as ‘critical habitat’ where the land cannot sustain that species and the species is nowhere to be found.

(I have commented previously that the wacko enviros have been falsely claiming non-existent ‘endangered’ species to kick people off their public lands as well as private property. Maybe now the ‘new sheriff in town’ will stop them cold in their evil little game JJ)

Attorney General ends EPA Slush Fund – Some of the huge taxpayer subsidies for electric vehicles, wind and solar power, and other projects favored by environmental groups are coming to an end. In the past, the Environmental Protection Agency (EPA) entered into “mitigation” settlements with companies found to be in violation of the Clean Air Act. Since 2005, according to the Competitive Enterprise Institute, the EPA collected \$1.55 billion in settlement payments. The agency then used this money as they wished, directing it to go to a certain group or cause without the approval of Congress, with \$74.4 million to renewable energy, \$256 million to energy efficiency projects and \$1.2 billion to electric vehicle infrastructure and promotion, according to CEI. Attorney General Jeff Sessions is attempting to put an end to this practice. He recently issued a memorandum prohibiting settlement payments to third parties in lawsuits and directed those settlement funds to be deposited into the US Treasury. The memo states, “Department attorneys may not enter into any agreement on behalf of the United States in settlement of federal claims or charges ... that directs or provides for a payment or loan to any nongovernmental person or entity that is not a party to the dispute.”

(And I have previously commented on this issue as well. Way too often, parties settle ‘out of court’, as it were, to avoid the risk of losing or having to pay more. Again, the ‘new sheriff’ is going to put a stop to this practice of intimidation and bullying as well. I don’t know about you guys and gals, but this is one miner that is starting to feel better about things...JJ)

MINER WINS IN MONTANA WATER COURT BY Scott Harn

Terry and Melissa Smith and their son Casey are Montana miners who have several decades of experience. But the US Forest Service and the Montana Department of Fish, Wildlife and Parks recently tried to put an end to their endeavors. The Smiths have been working their claims on Thomas Creek off and on since 1996. Terry asked for and received permission from a miner working adjacent claims, Willison, to utilize his water right. This water right was valid for one-cubic-foot-per-second. It was originally established in 1937, changed hands a few times, and was conveyed to Willison in 1980. Willison filed for the water right under his own name in 1982. Annual affidavits showed Terry worked his mining claims from 1996 through 2004, returning to reestablish his claims in the area in 2013. Again Terry sought and received permission from Willison to use his water right on behalf of himself, his wife Melissa and son Casey, and the Smiths later purchase the full water right in 2016, though by that time the US Forest Service and Montana Dept. of FWP claimed there was no privity of title between the Smiths and Willison, and the water right had been abandoned. They pointed out that Willison had previously been served with a notice of abandonment and he failed to attend hearings scheduled by the Water Court. They objected to the Smiths water right and filed their complaint with the Montana Water Court. The Smiths did their homework and were able to produce documents, contracts and deeds showing continued use of the water right from the 1930’s to the present day. While there was a break in mining from 2004 until 2013, the water diversion



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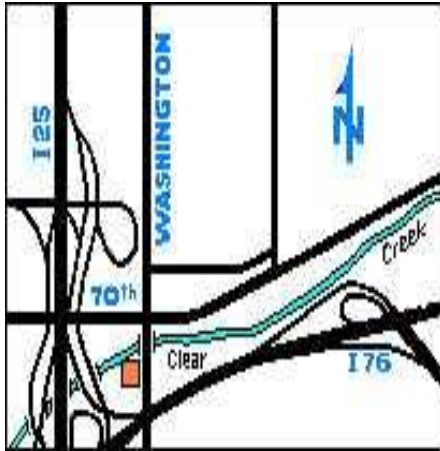
device, pump, etc., were still maintained. The trial began June 7, 2017. DOJ attorney James DuBois represented the USFS. Two attorneys were present for the State of Montana, though they did not call or examine any witnesses. The Smiths represented themselves. Judge Russ McElyea ultimately ruled in favor of the Smiths on both privity and abandonment. By digging through BLM mining claim records, and contracts and deeds kept by the County Recorder, the smiths were able to effectively show the history of shared water use under the same water right for mining claims in the immediate area, including their own. Regarding abandonment, the smiths provided a letter they had sent to the local Forest Supervisor which declared their intent to maintain their diversion, pump and equipment while they were not actively mining during the span of 2004-2013. Judge McElyea ruled, "The evidence introduced by the USFS focused principally on abandonment of unpatented mining claims. The owner of an unpatented mining claim has a right to remove minerals from public land. Mining claims are obtained independently from water rights, and are separate property interests. Ownership of one right does not mean ownership of the other. Mining claims and water rights are subject to different abandonment standards. A mining claim may be lost simply by missing an annual paperwork deadline and may be reestablished by locating a new claim in the same place. Abandonment of a water right requires nonuse and intent to abandon. While abandonment of a mining claim may suggest the water right used on it was also abandoned, that result is not automatic. Mining activity and water use on Thomas Creek followed a cyclic pattern. Mining claims were located, abandoned, and then refiled. Water was used on mining claims when there were active and efforts were made to maintain diversions, pipelines and other structures needed to use water for mining.' In 2014, THE Water Court had ruled that Willison had abandoned his water right at a hearing he did not attend, but the Court was unaware Willison had given permission to use that water right to the Smiths and they had taken over maintenance to keep the diversions in place and functioning. Judge McElyea also wrote, "In documents filed after trial, the objectors asserted Willison showed intent to abandon by failing to attend proceedings scheduled by the Water Court. The Water Court eventually sanctioned Willison for nonattendance by terminating his right. His right was resurrected after new owners appeared and made a commitment to address the validity of Willison's right on the merits. Though it is not defensible conduct, failure to attend court proceedings is common among self-represented litigants. The reasons for this behavior range from fear to lack of understanding of the process, to willful refusal to participate. Where litigants show good faith, the Court generally responds with patience. The evidence at trial showed that Gene Willison is over ninety years old and has issues with balance that impact his mobility. Under these circumstances, Willison is entitled to some leeway. His failure to attend prior proceedings is not evidence of intent to abandon."

Smith stated that he had approached an attorney with this case but the cost was prohibitive and the attorney doubtful of success. The Smiths continued to track down all the past records they could find and decided to fight it alone. They knew they had not abandoned their water right and there is still plenty of good gold remaining on their claims. This case should inspire some of you. It shows that miners can and do succeed when they are persistent and well prepared, even when representing themselves against state and federal attorneys in a court of law.

(Scott Harn is the publisher/editor of the ICMJ's Prospecting and Mining Journal, celebrating its 87th year of publication....every serious prospector should have a subscription to this magazine...JJ)



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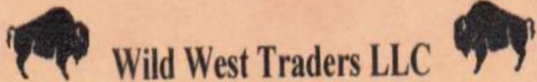


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Contact the GPR President

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Coming Announcements and Special Events for Jan 2018

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SUN	MON	TUE	WED	THU	FRI	SAT
	1 New Year's Day	2	3	4	5	6 WMMI Family Day: Geology
7	8	9	10	11	12	13
14	15 Martin Luther King Jr. Day	16	17 GPR Club Meeting	18	19	20
21	22	23	24	25	26	27
28	29	30	31			